



December 11, 2007

Hello,

IMMIGRATION LAW UPDATE:

SSA Decides It Will Not Issue Employer No-Match Letters This Year

In response to a preliminary injunction granted by a federal court in California, [the Social Security Administration will not be sending no-match letters to employers this year](#). The injunction had implications for SSA and the content of their no-match letters, primarily from the language threatening non-complying employers within criminal and civil penalties. As discussed in [previous Immigration Updates](#), the SSA sends employers a "no-match" letter asking the employer to resolve any discrepancies between an employee's name and his/her social security number (SSN), and SSA's records. SSA believes letters could go out in the Spring of 2008.

New I-9 Form Must Be Used By All Employers By December 26, 2007

The US Citizenship and Immigration Services (USCIS) released a [new I-9 Employment Verification Form](#) which must be used for [all persons hired on or after December 26, 2007](#). By way of background, the I-9 form must be completed by every employer for every employee hired to work in the US since November 6, 1986. The form is designed to ensure that only persons who have an appropriate immigration status are allowed to work in the US. The changes to this form are only to the second page, which lists the acceptable documents. Several documents were deleted under a 1996 law. The first page of the form, except for the version date, remains almost identical to earlier versions. A copy of the USCIS fact sheet is available on [the USCIS website](#). USCIS has also updated the [I-9 Employer Handbook](#).

Target Corporation and Whole Foods Market Charged with Discrimination

As an example of the other side of the I-9 compliance issues, Social Security "no match" letters, and employment of unauthorized workers, Target Corporation and Whole Foods Market received a complaint for "document abuse". The Legal Aid Society - Employment Law Center (LAS-ELC) filed two separate charges against both Target and Whole Foods with the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) of the US Department of Justice in Washington, D.C. The suit [alleges that the companies engaged in "document abuse"](#) by illegally firing and suspending, respectively, two immigrant workers, even though they had presented clear evidence of their authorization to work in the United States. The complaint goes on to state that the companies' unwarranted over-scrutiny of two Latina immigrants' work authorizations led to the termination of a Target employee, who was authorized to work under Temporary Protected Status (TPS), and a 30 day suspension without pay of a Whole Foods Market employee, who is a naturalized United States citizen. Immigration regulations prohibit over documentation, or requesting additional documents when an employee has presented documentation which satisfies the I-9 process.

Visa Priority Dates - December Visa Bulletin

The December Visa Bulletin has been posted, and there has been significant retrogression in the [employment based green card](#) priority dates posted in the November Visa Bulletin. Both China and India in the second preference category have fallen further back (retrogressed). This is likely the result of the heavy applicant demand for numbers, primarily by Citizenship and Immigration Services offices for adjustment of status cases. The third preference has also fallen further behind. For a copy of the December Visa Bulletin, visit the [Department of State \(DOS\) website](#). For a summary of [priority dates](#), and the issues that have arisen with the [Visa Bulletin](#) recently, please visit our [previous Immigration Updates](#).

Processing Times and Case Status

The US Citizenship and Immigration Services (USCIS) has received a significant increase in the number of applications filed this year. Although the agency is working to improve its internal processes and increase its resources, [processing times for certain types of applications may become even longer](#). Specifically, USCIS has indicated that naturalization applications filed after June 1, 2007 may take up to 18 months to process.

Changes in the FBI Name Check Clearance Process

Department of Homeland Security (DHS) Secretary Chertoff recently indicated that the USCIS and the FBI are amending the name check process, anticipating that such changes will significantly clear the backlog within six months. Name check delays have been a significant issue in processing Adjustment of Status and Naturalization applications since September 11, 2001.

Department of State Issues Record Number of Visas to Foreign Students

In 2007, the Department of State issued more than [600,000 student and exchange visitor visas](#), which represent a 10% increase from last year. The increased numbers prove the success of the US government's efforts to reverse the drop in student visa applications since September 11, 2001.

Contact Listing

Employment

Immigration

<u>Michael P. Nowlan</u> Immigration Co-Practice Group Leader	(313) 965-8666
<u>Kelli B. Matthew</u> Immigration Co-Practice Group Leader	(313) 965-8576*

**designates a non-attorney*



This newsletter is prepared by Clark Hill PLC to provide general information on recent legal developments of interest to our readers. This publication is not intended to, nor does it, provide legal or other professional advice for any specific situation or create an attorney-client relationship. Clark Hill attorneys provide legal advice only upon the execution of a engagement letter establishing a formal attorney-client relationship. We would be pleased to provide such legal assistance as you may require on these and other subjects if you directly contact a Clark Hill attorney and establish an attorney-client relationship.

[Subscribe](#) [Unsubscribe from the Clark Hill List](#) [Edit Your Clark Hill Profile](#) [Forward This Clark Hill e-Newsletter](#)

This email message was generated by [Clark Hill PLC](#)

Powered By www.nTarget.com